

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

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|--------------------------|---|--------------------------------|
| UNITED STATES OF AMERICA |) | DOCKET NO. 3:19CR35-RJC |
| |) | |
| v. |) | OPPOSITION TO MOTION TO |
| |) | LIFT STAY OF CRIMINAL |
| ROBERT McCOY, JR. |) | CONTEMPT CASE |

NOW COMES Defendant ROBERT McCOY, JR., by and through undersigned counsel, and hereby files this Opposition to the government's Motion to Lift Stay Due to Defendants' Violation of Pretrial Diversion Agreement (Document 25). (This matter is now pending solely against Robert McCoy, as his codefendant and ex-wife Misty McCoy tragically passed away on December 26, 2019.)

In addition to general conditions of supervision, the Pretrial Diversion Agreement entered into by the parties on May 23, 2019, imposed the following special conditions of pretrial diversion on Defendant Robert McCoy: (1) being placed on a period of diversion and supervision for six months or until the termination of the civil/bankruptcy proceedings, whichever is later, but in no event longer than 18 months; (2) payment of a \$10,000.00 fine to the Clerk of Court within 120 days; (3) performance of 160 hours of community service. McCoy has successfully and timely complied with all three of the above conditions.

Other conditions include: (1) not violating any federal, state or local law; (2) reporting to his pretrial diversion officer; (3) complying with any orders issued in the civil/bankruptcy case. McCoy has clearly complied with the first two of these. As to the third condition, because the Pretrial Diversion Agreement was not entered into until May

23, 2019, only acts or omissions occurring after that date could violate the Pretrial Diversion Agreement.

Robert McCoy has been represented in the civil/bankruptcy case by attorney Robert Trobich, who has endeavored with his client to comply with all court orders issued in that case. Through Trobich, Robert McCoy has made several substantial productions of information and documents in accordance with the Court's orders and continued presenting information requested by the Court right up to the day before the December 19 show cause hearing.

Based on the above circumstances, Defendant respectfully requests this Honorable Court to deny the government's motion to lift the stay of the criminal contempt case.

Respectfully submitted,

January 8, 2020

s/ Mark P. Foster, Jr.
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above **OPPOSITION TO MOTION TO LIFT STAY OF CRIMINAL CONTEMPT CASE** has been duly served on the attorney listed below by e-mail service through ECF on this date:

Mark Odulio
U.S. Attorney's Office
227 W. Trade Street, 17th Floor
Charlotte, NC 28202

January 8, 2020

s/ Mark P. Foster, Jr.
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